

State of California
BOARD OF EQUALIZATION
SALES AND USE TAX REGULATIONS

**Regulation 1669.5. DEMONSTRATION, DISPLAY, AND USE OF PROPERTY HELD FOR
RESALE — VEHICLES.**

References: Sections 6094, 6244, and 6403, Revenue and Taxation Code.
Demonstration and display in general, see Regulation 1669.
Leases and rentals in general, see Regulation 1660.
Leases of mobile transportation equipment, see Regulation 1661.
Automobile dealers and salespersons, see Regulation 1566.

(a) VEHICLE DEALERS, LESSORS, MANUFACTURERS, AND DISTRIBUTORS — IN GENERAL.

(1) "VEHICLE". Except as used in (a) (4), the term "vehicle" as used herein means passenger motor vehicles, as defined in Section 465 of the Vehicle Code, pickup trucks, and small vans.

(2) "LESSOR". The term "lessor", as used herein, means only a lessor whose leases are continuing sales.

(3) DEMONSTRATION OR DISPLAY. A purchaser of a vehicle under a resale certificate, who uses the vehicle solely for demonstration or display while holding it for sale in the regular course of business, is not required to pay tax on account of such use.

(4) LOANS TO SCHOOLS, COLLEGES, AND VETERANS' INSTITUTIONS FOR EDUCATIONAL OR TRAINING PROGRAMS.

(A) The loan by any retailer of any tangible personal property to any school district for an educational program conducted by the district is exempt from the use tax.

(B) The loan by any retailer of any motor vehicle to the California State Universities or the University of California for exclusive use in an approved driver education teacher preparation certification program conducted by the state college or university is exempt from the use tax.

(C) The loan by any retailer of a motor vehicle to be used exclusively for driver training in an accredited private or parochial secondary school in a driver education and training program approved by the State Department of Education as a regularly conducted course of study is exempt from the use tax.

(D) The loan by any retailer of any motor vehicle to a veterans' hospital or such other nonprofit facility or institution to provide instruction in the operation of specially equipped motor vehicles to disabled veterans is exempt from the use tax.

(5) DONATIONS OF VEHICLES. Operative January 1, 1989, vehicles withdrawn from resale inventory for donation to a qualified organization located in this state as described in paragraph (e) of Regulation 1669, (18 CCR 1669), are exempt from the use tax. For the period January 1, 1989 through October 1, 1989, this exemption is available only to retailers. Effective October 2, 1989, this exemption is available to all sellers.

(6) PERSONAL OR BUSINESS USE. Vehicles withdrawn from resale inventory for personal or business use are subject to use tax except as provided in paragraph (a) (5). If the vehicle is not frequently demonstrated or displayed while holding it for resale in conjunction with such business or personal use, the tax is measured by the purchase price of the vehicle.

(7) VEHICLES CAPITALIZED AS FIXED ASSETS. Except for vehicles held for the purpose of leasing, vehicles which are capitalized in a fixed asset account and depreciated for income tax purposes are not held for sale in the regular course of business. Tax must be paid measured by the purchase price of such vehicles.

(8) REGISTRATION. If a vehicle manufacturer, distributor, dealer, or lessor registers a vehicle purchased for resale in a name other than that of the manufacturer, distributor, dealer, or lessor, while retaining title to the vehicle, the vehicle is not held for sale in the regular course of business, and the manufacturer, distributor, dealer, or lessor must pay use tax measured by his purchase price of the vehicle.

(9) VEHICLES USED BOTH FOR DEMONSTRATION AND OTHER PURPOSES. If vehicles purchased under a resale certificate are frequently demonstrated or displayed while being held for sale in the regular course of business, and are also used partly for other purposes, tax must be paid measured by the fair rental value of

Regulation 1669.5. (Continued)

the vehicles for the periods of other use. Such interspersed demonstration or display and other use may occur when a dealer or lessor purchases vehicles without tax paid on the purchase price and uses them personally, or allows vehicle salespersons, vehicle sales managers, partners, corporate officers, or other persons to use them for purposes in addition to demonstration or display.

(10) **RENTAL TO SALESPERSONS FOR DEMONSTRATION.** A dealer who rents vehicles which are not mobile transportation equipment to salespersons is regarded as making continuing sales of the vehicles and must collect and pay tax on the rental receipts, unless tax has been paid measured by the purchase price of the vehicles. However, if the rental receipts are less than 1/60th of the dealer's purchase price of the vehicle for each month of the rental, the transaction will not be considered a bona fide rental, and tax will be measured by 1/60th of the purchase price for each month of such use. For the application of tax to rentals of pickup trucks and other mobile transportation equipment, see Regulation 1661.

(11) **SUBSEQUENT RETAIL SALES.** The taxability of retail sales of vehicles is not affected by the fact that tax has been paid previously on the purchase price, rental receipts, or fair rental value because of the use or rental of the vehicles.

(12) **SALES TO SALESPERSONS FOR DEMONSTRATION.** Tax applies to sales by dealers to their salespersons of vehicles to be used for demonstration and personal use.

(13) **PRESUMPTIONS.** Any presumption established by this regulation may be rebutted only by clear and convincing evidence to the contrary. However, declarations after the fact are of little value as evidence because of their self-serving nature, and will be given little weight.

(b) NEW AND USED VEHICLE DEALERS AND LESSORS — SPECIFIC APPLICATIONS. The following provisions apply with respect to vehicles which are registered in the name of the dealer or lessor, and vehicles which are not registered. If vehicles are registered in the name of a person other than the dealer or lessor, see (a) (8) above.

(1) **TYPES OF VEHICLES NOT ORDINARILY SOLD.** If a vehicle dealer or lessor purchases under a resale certificate a new vehicle of a type which he or she is not franchised to sell, or does not ordinarily sell or lease as a new vehicle, and uses the vehicle for any purpose other than, or in addition to, demonstration or display, it will be presumed that the vehicle is not being held for sale in the regular course of business and that tax is due measured by the purchase price of such vehicle.

(2) **VEHICLES ASSIGNED TO VEHICLE SALES PERSONNEL.** When a vehicle dealer or lessor assigns a vehicle as a demonstrator to vehicle sales personnel for a period not exceeding 12 months, it will be presumed that such vehicles are frequently demonstrated or displayed, and that they are also used partly for other purposes. Under these circumstances, the measure of tax is the fair rental value of the vehicle for the periods of personal or business use which are interspersed with the demonstration or display. It will be further presumed that the fair rental value for such business and personal use is 1/60th of the purchase price of the vehicle for each month of combined demonstration or display and use. As used here, the term "sales personnel" is limited to vehicle salespersons and vehicle sales managers, and to sole proprietors, partners, or corporate officers who directly participate in negotiating sales.

(3) **VEHICLES ASSIGNED TO OTHERS.**

(A) When a vehicle dealer or lessor assigns a vehicle for a period not exceeding 12 months to employees or officers other than vehicle sales personnel, it will be presumed that such vehicles are frequently demonstrated or displayed, but less frequently than those assigned to vehicle sales personnel, and that they are also used for other purposes to a greater extent than those assigned to vehicle sales personnel. Under these circumstances, the measure of tax is the fair rental value of the vehicle for the periods of personal or business use which are interspersed with demonstration or display. It will be further presumed that the fair rental value for such business and personal use is 1/40th of the purchase price of the vehicle for each month of combined demonstration or display and use.

(B) When a vehicle dealer or lessor assigns a vehicle to persons other than employees or officers, such as relatives or business associates, it will be presumed that the vehicle is not frequently demonstrated or displayed. Tax must be paid measured by the purchase price of such vehicles.

Regulation 1669.5. (Continued)

(4) **VEHICLES ASSIGNED FOR EXTENSIVE PERIODS OF TIME.** It will be presumed that any vehicle assigned for more than 12 months to one or a series of persons for business or personal use in addition to demonstration or display is not held for sale in the regular course of business. Tax must be paid measured by the purchase price of such vehicles. If at the time the vehicle is assigned for such combined use the duration of the combined use is not known, the dealer or lessor may use either the 1/40th or 1/60th formula, as appropriate, to report use tax liability until the period of combined use exceeds 12 months. At that time he or she must report and pay tax on the difference between the purchase price of the vehicle and the measure of tax previously reported with respect to the vehicle under the formula.

(5) **UNASSIGNED DEMONSTRATORS.** If no use is made of vehicles purchased under a resale certificate, other than demonstration or display while holding them for sale in the regular course of business, no tax liability arises. Such vehicles generally are not assigned to any individual. However, if such vehicles are registered in the name of the dealer, it will be presumed that they are used for other purposes in addition to demonstration or display. Under these circumstances, the measure of tax is the fair rental value of the vehicle for the periods of personal or business use which are interspersed with the demonstration or display. It will be further presumed that the fair rental value for such other use as 1/40th of the purchase price of the vehicle for each month of combined demonstration or display and use.

(6) **CUSTOMER LOAN VEHICLES.** If the use of a vehicle purchased under a resale certificate is limited to the loan, but not the rental, of the vehicle to customers while they are awaiting delivery of vehicles purchased or leased from the dealer, or while their vehicles are being repaired by the dealer, the measure of tax is the fair rental value of the vehicle for the duration of each loan so made. The fair rental value is the amount for which the dealer rents similar vehicles for similar periods to persons who are not customers awaiting delivery of vehicles purchased or leased from the dealer or being repaired by the dealer. If the dealer does not rent vehicles under such circumstances, the fair rental value is the amount for which other dealers in the area rent similar vehicles for similar periods to persons who are not customers awaiting delivery of vehicles purchased or leased from the other dealers or being repaired by the other dealers.

If a lessor loans a vehicle to a lessee while the lessee is awaiting delivery of the leased vehicle, or while the leased vehicle is being repaired, and the regular lease payments continue to accrue during the period of the loan, the regular lease payments will be considered to cover the use of the substitute loan vehicle. No additional tax beyond the tax measured by the regular lease payments will be due as a result of the loan.

(7) **OTHER LOANS OF VEHICLES.** If a vehicle dealer or lessor removes a vehicle from resale inventory and loans it to persons other than those specified in (b) (6) above, and the vehicle is not frequently demonstrated or displayed, tax must be paid measured by the purchase price of the vehicle, unless the loan is of such short duration as to constitute only incidental use. If the loan constitutes only incidental use, preceded and followed by frequent demonstration or display, the measure of tax is the fair rental value of the vehicle for the period of such use as fair rental value is defined in (b) (6) above. A loan for a period of 30 days or less will be considered incidental use. Periods during which a vehicle is leased, pursuant to leases which constitute continuing sales, will be regarded as periods equivalent to periods of demonstration and display.

(c) VEHICLE MANUFACTURERS AND DISTRIBUTORS — SPECIFIC APPLICATIONS.

(1) **VEHICLES ASSIGNED FOR EXTENSIVE PERIODS OF TIME.** It will be presumed that any vehicle assigned for more than 12 months to one or a series of persons for business or personal use in addition to demonstration or display, or assigned for more than 12 months to "pool service", is not held for sale in the regular course of business. Tax must be paid by manufacturers measured by the purchase price of tangible personal property used to manufacture the vehicle, and tax must be paid by distributors measured by their purchase price of the vehicle.

(2) **VEHICLES ASSIGNED FOR LIMITED PERIODS OF TIME.** It will be presumed that any vehicle assigned to one or a series of employees or other persons for a period of time not exceeding 12 months in the aggregate is frequently demonstrated or displayed and that it is also used partly for other purposes. This same presumption will be made with respect to any vehicle registered in the name of the manufacturer or distributor, and any vehicle placed for a period of time not exceeding 12 months in a "pool" from which vehicles are assigned to various employees or loaned for short intervals to television studios, visiting dignitaries, automotive magazine editors, etc. Under these circumstances, the measure of tax is the fair rental value of the vehicle for the periods of personal

Regulation 1669.5. (Continued)

or business use which are interspersed with the demonstration or display. It will be further presumed that the fair rental value for such personal or business use is 1/40th of the "net dealer price" of the vehicle for each month of such combined use. Since manufacturers' and distributors' sales personnel demonstrate vehicle less frequently than dealers' or lessors' sales personnel, no distinction is made in this presumption between sales personnel and others.

"Net dealer price" is the factory selling price to dealers, including optional extra cost equipment, before any discounts or rebates. It also includes federal excise tax, but it does not include destination, handling, and other charges.

APPENDIX 1

In determining 1/40th or 1/60th of the purchase price of vehicles, the following schedule may be used:

PURCHASE PRICE OF VEHICLE	MEDIAN COST	1/40TH	1/60TH
\$ 900 to \$1,500	\$1,200	\$ 30	\$ 20
1,500 to 2,100	1,800	45	30
2,100 to 2,700	2,400	60	40
2,700 to 3,300	3,000	75	50
3,300 to 3,900	3,600	90	60
3,900 to 4,500	4,200	105	70
4,500 to 5,100	4,800	120	80
5,100 to 5,700	5,400	135	90
5,700 to 6,300	6,000	150	100
6,300 to 6,900	6,600	165	110
6,900 to 7,500	7,200	180	120
7,500 to 8,100	7,800	195	130
8,100 to 8,700	8,400	210	140

History: Adopted June 24, 1976, effective July 30, 1976.

Amended August 5, 1983, effective September 6, 1983. In subsection (a)(4)(B) changed "California State Colleges" to "California State Universities".

Amended May 1, 1991, effective July 19, 1991. Paragraphs (a) (5) through (a) (12) were renumbered to (a) (6) through (a) (13), and new paragraph (a) (5) was added. Reference to provisions of paragraph (1) (5) were added to new paragraph (a) (6). Reference to paragraph (a) (7) in paragraph (b) was corrected to new paragraph number (a) (8). Paragraph (d) was deleted. Paragraphs (a) (9), (a) (10), (a) (12), (b) (1), (b) (2), (b) (4) and (b) (6) were amended to replace the term "salesmen" with the term "salesperson".

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.